

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:18-CR-00036-2-BCW
)	
JOSHUA NESBITT,)	
)	
Defendant.)	

ORDER

Before the Court is Magistrate Judge Counts’ Report and Recommendation (Doc. #1489) addressing Defendant Nesbitt’s motion to suppress statements (Doc. #1076), motion to suppress buccal swab (Doc. #1077), and motion to suppress evidence seized from the search of his jail property/tennis shoes (Doc. #1101). Judge Counts’ Report and Recommendation recommends (1) denying the motion to suppress statements (Doc. #1076) with the limited exception that the statements made on August 29, 2016, to the Jackson County Detention Center investigators and the statements made on November 30, 2015, after Defendant Nesbitt invoked his right to remain silent shall be excluded unless Defendant Nesbitt testifies inconsistently; (2) denying the motion to suppress buccal swab (Doc. #1077); and (3) denying the motion to suppress evidence seized from the search of Defendant’s jail property/tennis shoes (Doc. #1101).

An evidentiary hearing was held on November 2, 2022. On July 20, 2023, Judge Counts issued the instant Report and Recommendation. (Doc. #1489). The Government nor Defendant filed objections to the Report and Recommendation and the time to do so has passed.

After an independent review of the record, the applicable law, and the parties' arguments, the Court adopts Magistrate Judge Counts' findings of fact and conclusions of law. Accordingly, it is hereby

ORDERED for the reasons stated in the Report and Recommendation (Doc. #1489), Defendant Nesbitt's motion to suppress statements (Doc. #1076) is DENIED with the limited exception that the statements made on August 29, 2016, to the Jackson County Detention Center investigators and the statements made on November 30, 2015, after Defendant Nesbitt invoked his right to remain silent shall be excluded unless Defendant Nesbitt testifies inconsistently. It is further

ORDERED for the reasons stated in the Report and Recommendation (Doc. #1489), Defendant Nesbitt's motion to suppress buccal swab (Doc. #1077) is DENIED. It is further

ORDERED for the reasons stated in the Report and Recommendation (Doc. #1489), Defendant Nesbitt's motion to suppress evidence seized from the search of Defendant's jail property/tennis shoes (Doc. #1101) is DENIED. It is further

ORDERED Magistrate Judge Counts' Report and Recommendation (Doc. #1489) be attached to and made part of this Order.

IT IS SO ORDERED.

DATED: August 7, 2023

/s/ Brian C. Wimes
JUDGE BRIAN C. WIMES
UNITED STATES DISTRICT COURT